S.B. CIVIL WRIT PETITION NO.5439/2004

Birla Corporation Ltd.
VS

Kailash Panwar & Ors.

DATE OF ORDER : 17.3.2005

HON'BLE MR.PRAKASH TATIA, J.

Mr.J.L.Purohit, for the petitioner .

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None appeared for the respondent to oppose the present writ petition despite the fact that this court issued notice for final disposal of this writ petition on 15.12.2004.

Heard learned counsel for the petitioner.

The petitioner's written statement, which was filed on 2nd Sept., 2004 was ordered to be removed from the record of the trial court (for placing in part 'D' of the file of the trial court) on the ground that written statement was not filed by the petitioner within the time period prescribed for filing the written statement.

It will be relevant to mention here that petitioner's application filed under Order 7 Rule 11 CPC was dismissed by the trial court by order

dated 6th August, 2004 and the case was fixed for filing of the written statement of the petitioner on 23rd August, 2004. On 23rd August, 2004 because of some condolence meeting, the case was fixed on 2nd Sept., 2004 and on that day, the written statement was filed.

In view of the totality of the facts and in view of the fact that the respondents have no objection as they have not raised any objection despite the service of the notice, the writ petition of the petitioner is allowed and the order dated 17th Sept., 2004 passed by the trial court is set aside and the written statement as filed by the petitioner on 2nd Sept., 2004 shall be treated as on record. No order as to costs as none appeared to oppose the writ petition despite notice.

(PRAKASH TATIA), J.

c.p.goyal/-